

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1677

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 18 (legislative day, NOVEMBER 2), 1993

Mr. HATFIELD introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Code of Conduct on  
5   Arms Transfers Act of 1993”.

### 6   **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) Approximately 40,000,000 people, over 75  
2           percent civilians, died as a result of civil and inter-  
3           national wars fought with conventional weapons dur-  
4           ing the 45 years of the cold war, demonstrating that  
5           conventional weapons can in fact be weapons of  
6           mass destruction.

7           (2) Conflict has actually increased in the post  
8           cold war era, with 26 wars in progress during 1992.

9           (3) War is both a human tragedy and an ongo-  
10          ing economic disaster affecting the entire world, in-  
11          cluding the United States and its economy, because  
12          it decimates both local investment and potential ex-  
13          port markets.

14          (4) International trade in conventional weapons  
15          increases the risk and impact of war in an already  
16          over-militarized world, creating far more costs than  
17          benefits for the United States economy through in-  
18          creased United States defense and foreign assistance  
19          spending and reduced demand for United States  
20          civilian exports.

21          (5) The newly established United Nations Reg-  
22          ister of Conventional Arms can be an effective first  
23          step in support of limitations on the supply of con-  
24          ventional weapons to developing countries and com-  
25          pliance with its reporting requirements by a foreign

1 government can be an integral tool in determining  
2 the worthiness of such government for the receipt of  
3 United States military assistance and arms  
4 transfers.

5 (6) It is in the national security and economic  
6 interests of the United States to reduce dramatically  
7 the \$1,000,000,000,000 that all countries spend on  
8 armed forces every year, \$200,000,000,000 of which  
9 is spent by developing countries, an amount equiva-  
10 lent to 4 times the total bilateral and multilateral  
11 foreign assistance such countries receive every year.

12 (7) According to the Congressional Research  
13 Service, the United States supplies more conven-  
14 tional weapons to developing countries than all other  
15 countries combined, averaging \$15,600,000,000 a  
16 year in agreements to supply such weapons to devel-  
17 oping countries since the end of the cold war, com-  
18 pared to \$7,000,000,000 a year in such agreements  
19 prior to the dissolution of the Soviet Union.

20 (8) In recent years the vast majority of United  
21 States arms transfers to developing countries are to  
22 countries with an undemocratic form of government  
23 whose citizens, according to the Department of State  
24 Country Reports on Human Rights Practices do not

1        have the ability to peaceably change their form of  
2        government.

3            (9) Although a goal of United States foreign  
4        policy should be to work with foreign governments  
5        and international organizations to reduce militariza-  
6        tion and dictatorship and therefore prevent conflicts  
7        before they arise, during 3 recent deployments of  
8        United States Armed Forces—to the Republic of  
9        Panama, the Persian Gulf, and Somalia—such  
10      Armed Forces faced conventional weapons that had  
11      been provided or financed by the United States to  
12      undemocratic governments.

13           (10) The proliferation of conventional arms and  
14      conflicts around the globe are multilateral problems,  
15      and the fact that the United States has emerged as  
16      the world's primary seller of conventional weapons,  
17      combined with the world leadership role of the  
18      United States, signifies that the United States is in  
19      a position to seek multilateral restraints on the com-  
20      petition for and transfers of conventional weapons.

21           (11) Congress has the constitutional respon-  
22      sibility to participate with the executive branch in  
23      decisions to provide military assistance and arms  
24      transfers to a foreign government, and in the formu-

1       lation of a policy designed to reduce dramatically the  
2       level of international militarization.

3           (12) A decision to provide military assistance  
4       and arms transfers to a government that is undemo-  
5       cratic, does not adequately protect human rights, is  
6       currently engaged in acts of armed aggression, or is  
7       not fully participating in the United Nations Reg-  
8       ister of Conventional Arms, should require a higher  
9       level of scrutiny than does a decision to provide such  
10      assistance and arms transfers to a government to  
11      which these conditions do not apply.

12   **SEC. 3. PURPOSE.**

13       The purpose of this Act is to provide clear policy  
14      guidelines and congressional responsibility for determining  
15      the eligibility of foreign governments to be considered for  
16      United States military assistance and arms transfers.

17   **SEC. 4. PROHIBITION OF UNITED STATES MILITARY ASSIST-**  
18                   **ANCE AND ARMS TRANSFERS TO CERTAIN**  
19                   **FOREIGN GOVERNMENTS.**

20       (a) PROHIBITION.—Except as provided in subsections  
21      (b) and (c), United States military assistance and arms  
22      transfers may not be provided to a foreign government for  
23      a fiscal year unless the President certifies to the Congress  
24      for that fiscal year that such government meets the follow-  
25      ing requirements:

1           (1) PROMOTES DEMOCRACY.—Such govern-  
2       ment—

3           (A) was chosen in free and fair elections  
4       and permits free and fair elections to take  
5       place;

6           (B) promotes civilian control of the mili-  
7       tary and security forces, and has civilian insti-  
8       tutions that determine national security policy  
9       and control the operations and spending of the  
10      armed forces, security forces, and police or  
11      other law enforcement forces;

12          (C) promotes the rule of law, equality be-  
13      fore the law, and respect for individual and mi-  
14      nority rights, including freedom to speak, pub-  
15      lish, associate, and organize;

16          (D) promotes the strengthening of the po-  
17      litical and civil infrastructure of democracy, in-  
18      cluding democratic legislatures and local gov-  
19      ernment structures and institutions of civil soci-  
20      ety that emphasize pluralism and autonomy  
21      from the central government; and

22          (E) promotes strong internal and autono-  
23      mous institutions and groups to monitor the  
24      conduct of public officials and to combat cor-  
25      ruption.

1           (2) RESPECTS HUMAN RIGHTS.—Such govern-  
2       ment—

3           (A) does not engage in gross violations of  
4       internationally recognized human rights, includ-  
5       ing—

6           (i) extra judicial or arbitrary execu-  
7       tions;

8           (ii) disappearances;

9           (iii) torture or severe mistreatment;

10          (iv) prolonged arbitrary imprisonment;

11          (v) systematic official discrimination  
12       on the basis of race, ethnicity, religion,  
13       gender, or national origin; and

14          (vi) grave breaches of international  
15       laws of war or equivalent violations of the  
16       laws of war in internal conflicts;

17          (B) vigorously investigates, disciplines, and  
18       prosecutes those responsible for gross violations  
19       of internationally recognized human rights;

20          (C) permits access on a regular basis to  
21       political prisoners by international humani-  
22       tarian organizations such as the International  
23       Committee of the Red Cross;

1 (D) promotes the independence of the judi-  
2 ciary and other official bodies that oversee the  
3 protection of human rights;

4 (E) does not impede the free functioning of  
5 domestic and international human rights orga-  
6 nizations; and

7 (F) provides access on a regular basis to  
8 humanitarian organizations in situations of con-  
9 flict or famine.

10 (3) NOT ENGAGED IN CERTAIN ACTS OF ARMED  
11 AGGRESSION.—Such government is not currently en-  
12 gaged in acts of armed aggression in violation of  
13 international law.

14 (4) FULL PARTICIPATION IN U.N. REGISTER OF  
15 CONVENTIONAL ARMS.—Such government is fully  
16 participating in the United Nations Register of Con-  
17 ventional Arms by annually reporting to such Reg-  
18 ister—

19 (A) the number and type of conventional  
20 weapons that such government possessed during  
21 the preceding year; and

22 (B) the number and type of conventional  
23 weapons transferred to and from the country of  
24 such government during the preceding year.



1       (b) REQUIREMENT FOR CONTINUING COMPLI-  
2 ANCE.—Any certification with respect to a foreign govern-  
3 ment for a fiscal year under subsection (a) shall cease to  
4 be effective for that fiscal year if the President certifies  
5 to the Congress that such government has not continued  
6 to comply with the requirements contained in paragraphs  
7 (1) through (4) of such subsection.

8       (c) EXEMPTION.—The prohibition contained in sub-  
9 section (a) shall not apply with respect to a foreign govern-  
10 ment for a fiscal year if—

11           (1) the President submits a request for an ex-  
12 emption to the Congress containing a determination  
13 that it is in the national security interest of the  
14 United States to provide military assistance and  
15 arms transfers to such government; and

16           (2) the Congress enacts a law approving such  
17 exemption request.

18       (d) NOTIFICATION TO CONGRESS.—The President  
19 shall submit to the Congress initial certifications under  
20 subsection (a) and requests for exemptions under sub-  
21 section (c) in conjunction with the submission of the an-  
22 nual request for enactment of authorizations and appro-  
23 priations for foreign assistance programs for a fiscal year  
24 and shall, where appropriate, submit additional or amend-

1 ed certifications and requests for exemptions at any time  
2 thereafter in the fiscal year.

3 **SEC. 5. SENSE OF THE CONGRESS.**

4 It is the sense of the Congress that the Committee  
5 on Foreign Affairs of the House of Representatives and  
6 the Committee on Foreign Relations of the Senate should  
7 hold hearings on controversial certifications submitted  
8 under section 4(a) and all requests for exemptions submit-  
9 ted under section 4(c).

10 **SEC. 6. UNITED STATES MILITARY ASSISTANCE AND ARMS**  
11 **TRANSFERS DEFINED.**

12 For purposes of this Act, the terms “United States  
13 military assistance and arms transfers” and “military as-  
14 sistance and arms transfers” mean—

15 (1) assistance under chapter 2 of part II of the  
16 Foreign Assistance Act of 1961 (relating to military  
17 assistance), including the transfer of excess defense  
18 articles under sections 516 through 519 of that Act;

19 (2) assistance under chapter 5 of part II of the  
20 Foreign Assistance Act of 1961 (relating to inter-  
21 national military education and training);

22 (3) assistance under the “Foreign Military Fi-  
23 nancing Program” under section 23 of the Arms Ex-  
24 port Control Act; or

1           (4) the transfer of defense articles, defense  
2       services, or design and construction services under  
3       the Arms Export Control Act, including defense arti-  
4       cles and defense services licensed or approved for ex-  
5       port under section 38 of that Act.

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